

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.,

Plaintiffs,

vs.

Case No. 05-CV-00329-GKF SAJ

TYSON FOODS, INC., et al.,

Defendants.

VIDEO DEPOSITION OF SHANE TUELL
TAKEN ON BEHALF OF THE DEFENDANTS
ON APRIL 10, 2009, BEGINNING AT 8:39 A.M.
IN TULSA, OKLAHOMA

APPEARANCES

On behalf of the PLAINTIFFS:

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REPORTED BY: SUSAN K. MCGUIRE, CSR, RPR

SHANE TUELL

April 10, 2009

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1 APPEARANCES CONTINUED:

2 On behalf of the DEFENDANT PETERSON FARMS, INC:

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6 On behalf of the DEFENDANT GEORGE'S INC.

7 and GEORGE'S FARMS, INC.:

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SHANE TUELL

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1 VIDEOGRAPHER: This is Tape One to the
2 videotaped deposition of Shane Tuell in the matter of
3 State of Oklahoma versus Tyson Foods being heard
4 before the District Court for the Northern District of
5 Oklahoma, case file 05-CV-00329-GFK SAJ.

6 This deposition is being held at 100 West
7 Fifth Street in Tulsa, Oklahoma on April 10th, 2009.
8 We're on the record at 8:39 p.m.

9 My name is Gabriel Pack and I'm the
10 videographer. The court reporter is Susan McGuire.
11 Counsel, would you please introduce yourselves and
12 affiliations and the witness will be sworn.

13 MR. WALKER: Todd Walker with Faegre and
14 Benson, representing the Cargill defendants.

15 MR. MIRKES: Craig Mirkes, McDaniel, Hixon,
16 Longwell & Acord, representing Peterson Farms.

17 MR. CHADICK: Buddy Chadick with the Bassett
18 firm, representing the Georges.

19 MR. WOMACK: Michael Womack with Riggs,
20 Abney, representing the State of Oklahoma.

21 VIDEOGRAPHER: The court reporter will now
22 swear in the witness.

23 * * * * *

24 WHEREUPON,

25 SHANE TUELL

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1 after having been first duly sworn, deposes and says
2 in reply to the questions propounded as follows,
3 to-wit:

4 DIRECT EXAMINATION

5 BY MR. WALKER:

6 Q. Sergeant Tuell, I'm Todd Walker, we met just
7 a moment ago.

8 A. Yes, we did.

9 Q. We're here today to take your deposition.
10 Have you ever been deposed before?

11 A. Yes.

12 Q. How many times?

13 A. Several. I've worked as a homicide major
14 crimes detective and so I've.

15 Q. You're familiar with the process?

16 A. Done a few of these, yes, sir.

17 Q. I'd like to review just a few of the
18 important things.

19 A. Sure.

20 Q. Procedurally, very first of which I will say
21 is that we need to be careful not to talk over one
22 another and because we have a court reporter here
23 taking down everything that's said, it becomes pretty
24 difficult if we're both speaking at the same time. So
25 I would ask that through the course of our question

1 your investigation the present cattle uses and the
2 land uses in the IRW?

3 A. No.

4 Q. Did they ask you to document any other kind
5 of livestock in the IRW, other than poultry?

6 A. No.

7 Q. Do you know what BMPs, Inc. is?

8 A. I do not.

9 Q. Did you do anything in the course of your
10 work to determine the type of litter that was being
11 applied?

12 A. No.

13 Q. Mr. Steele testified that the investigative
14 work was done in good weather, not done in the rain;
15 is that your recollection?

16 A. Yes, that's my recollection.

17 Q. So I take it that you didn't go to any
18 fields to observe whether there was any water running
19 off of any fields?

20 A. That's correct.

21 Q. That you did not see any runoff occurring
22 during the course of your work?

23 A. That's correct.

24 Q. Did the State ask you to go and document any
25 occurrences that you could see of stream bank erosion?

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1 Q. Did you serve any Subpoenas in this case?

2 A. I did not.

3 Q. Did you ever go to any person's property to
4 try and get permission to collect well samples?

5 A. No, I did not.

6 Q. Did you ever go to any person's property to
7 get permission from them to access their property for
8 any purpose?

9 A. Not that I recall, no.

10 Q. Based on your knowledge of the laws of
11 Oklahoma, did you perceive any activity that you
12 observed in the course of this investigation as being
13 illegal or unlawful?

14 MR. WOMACK: I'll object to the form. Go
15 ahead.

16 THE WITNESS: No, I did not.

17 Q. (BY MR. WALKER) And did you report any
18 activities that you saw to any law enforcement agency?

19 A. I did not.

20 Q. Do you ever go tubing or fishing in the IRW?

21 A. Fishing, no. It's been quite some time
22 since I've gone down the Arkansas River.

23 Q. Have you ever gone to the Illinois River?

24 A. I said Arkansas, I meant Illinois River, I'm
25 sorry. Yes, I have gone down there but it's been a

1 MR. WOMACK: Okay. I have no further
2 questions.

3 MR. WALKER: I have a couple of follow-up
4 questions.

5 THE WITNESS: Sure.

6

7 REDIRECT EXAMINATION

8 BY MR. WALKER:

9 Q. You haven't been to the Illinois River for
10 eight years?

11 A. It's been quite some time. The last time,
12 like I said, the last time I went was sometime shortly
13 after I got on the police department.

14 Q. I think you said 2000 or 2001?

15 A. Yeah, it was around 2001, 2002, somewhere
16 around in there.

17 Q. And you did your work in this case in 2005;
18 right?

19 A. That's correct.

20 Q. Okay. And so before you did your work in
21 this case, did you have any plans to go back to the
22 Illinois River?

23 A. Since the last time I went, I have not had
24 any plans and most of that's do to the fact that when
25 I first got on the department for years I worked

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1 graveyard, so during the day I was sleeping.

2 And then now, I've got a family. I just
3 don't have time to go off and float the Illinois.

4 Q. A moment ago counsel asked you a question
5 and some follow-up questions about whether you saw
6 anything illegal or not and, you know, he asked the
7 question in such a way that I want to be sure that the
8 record's clear.

9 You do have an understanding of what some of
10 the laws of Oklahoma are, don't you?

11 A. Yes.

12 Q. Beyond just homicide law; right?

13 A. Yes.

14 Q. You've been a patrol officer?

15 A. Yes.

16 Q. And you -- there are probably a lot of laws
17 that you know about; correct?

18 A. That's correct, yes.

19 Q. Okay. And that's all my question is about,
20 is about the laws you do know.

21 A. Right.

22 Q. I'm not asking about the laws you don't
23 know, that's not, you know, very fair.

24 A. Sure.

25 Q. I just want to ask about the laws you do

1 know. Okay. Based on the laws you do know, over the
2 course of this investigation, did you see any illegal
3 activity?

4 A. No.

5 Q. And counsel a moment ago asked you about
6 Exhibit 3, and can you put that exhibit in front of
7 you again, and I want to ask you about the first page.

8 Just to be clear, you don't know where the
9 litter came from that you observed documented at
10 waypoint seven; right? It's the first page of
11 exhibit --

12 A. On --

13 Q. I'm sorry.

14 MR. MIRKES: It's the first page of waypoint
15 five.

16 Q. (BY MR. WALKER) The third page of Exhibit
17 3.

18 A. OK-PL-4890?

19 Q. That's correct. That's correct.

20 A. Okay. No, according to this page I do not
21 have a starting point for a full spreader truck. I
22 just have a waypoint for, two waypoints, one for
23 observing the full spreader truck spreading, and then
24 an empty, that empty truck returning to waypoint seven
25 to the Rucker farm.